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December 5, 2005

BY HAND DELIVERY

Marlene H. Dortch, Secretary
Federal Communications Commission
Office of the Secretary
236 Massachusetts Avenue, N.E.
Suite 110
Washington, DC 20002

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DEC - 5 2005

Federal Communications Commission
Office of Secretary

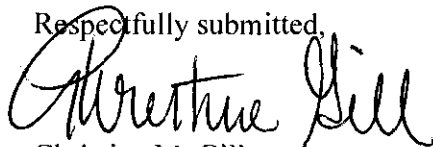
Re: Petition for Reconsideration and Clarification of the Commission's Order Addressing the
Request for Waiver by Southern Communications Services, Inc. d/b/a SouthernLINC
Wireless; CC Docket No. 94-102

Dear Ms. Dortch:

Southern Communications Services, Inc. d/b/a SouthernLINC Wireless, through its undersigned
counsel, hereby submits its Petition for Reconsideration and Clarification of the Commission's Order
of November 3, 2005, addressing SouthernLINC Wireless' Request for Waiver of Section
20.18(g)(1)(v) of the Commission's Rules, 47 C.F.R. § 20.18(g)(1)(v).

Enclosed please find an original and four copies of the above-captioned Petition for Reconsideration
and Clarification. Please date-stamp the enclosed extra copy and return it in the envelope provided.
If you have any questions regarding this filing, please do not hesitate to contact the undersigned.

Respectfully submitted,



Christine M. Gill

cc: Jeffrey Cohen
James Schlichting
Cathy Seidel
Michael Wilhelm

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**BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554**

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DEC - 5 2005

*Federal Communications Commission
Office of Secretary*

In the Matter of)	
)	
Revision of the Commission's Rules To)	
Ensure Compatibility with Enhanced 911)	CC Docket No. 94-102
Emergency Calling Systems)	
)	
Request for Waiver By Southern)	
Communications Services d/b/a)	
SouthernLINC Wireless)	

To: The Commission

**PETITION FOR RECONSIDERATION AND CLARIFICATION OF
SOUTHERNLINC WIRELESS**

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Dated: December 5, 2005

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EXECUTIVE SUMMARY

SouthernLINC Wireless hereby petitions the Commission for reconsideration and clarification of the Commission's *Order* granting in part SouthernLINC Wireless' Request for Waiver of the Commission's requirement that commercial mobile radio service (CMRS) providers utilizing handset-based E911 Phase II solutions achieve ninety-five percent penetration of automatic location identification (ALI)-capable handsets among their subscribers by December 31, 2005.

SouthernLINC Wireless had requested a limited waiver that would allow it an additional twenty-four months to reach the level of ninety-five percent penetration of location-capable handsets among its subscribers. Although the Commission granted SouthernLINC Wireless an extension of the December 31, 2005 deadline, it only provided SouthernLINC Wireless with an additional ten months to meet the ninety-five percent handset penetration level and imposed several conditions upon SouthernLINC Wireless. The Commission based its actions upon its determination that SouthernLINC Wireless "failed to show a clear path to full compliance" under the Commission's E911 waiver standards.

SouthernLINC Wireless believes that it has shown a clear path to full compliance and requests that the Commission reconsider its *Order* accordingly. SouthernLINC Wireless believes that the Commission based its determination on specific issues and standards that were identified for the first time in the *Order*, thus denying SouthernLINC Wireless the opportunity to address them. Furthermore, the Commission appears to have found the extensive measures already undertaken by SouthernLINC Wireless to be deficient, yet has provided no basis for such a conclusion. As a result, SouthernLINC Wireless is now in a difficult position – it believes it has undertaken meaningful concrete

steps to achieve compliance, but it is now left guessing about what exactly it is required to do in order to meet the Commission's expectations.

SouthernLINC Wireless also requests reconsideration and clarification of the specific conditions that the Commission has placed on its grant of waiver, several of which appear to be impractical to meet, are not applicable in SouthernLINC Wireless' case, or are insufficiently clear regarding SouthernLINC Wireless' obligations going forward. As a result, while SouthernLINC Wireless has every intention of fully complying with and fulfilling its regulatory obligations, it is not clear what the Commission's specific expectations are with respect to the conditions set forth in the *Order* and the implications of any failure on the part of SouthernLINC Wireless to specifically carry out all of the steps enumerated.

Finally, SouthernLINC Wireless respectfully requests that the Commission reconsider the revised November 3, 2006 deadline established in the *Order* for SouthernLINC Wireless to achieve ninety-five percent penetration of location-capable handsets among its subscriber base. As demonstrated in the record, SouthernLINC Wireless must contend with unique and exceptional circumstances that are ultimately beyond its control. While SouthernLINC Wireless believes that it will be able to achieve the ninety-five percent penetration level and will continue to put forth substantial effort and resources into doing so, ten months is simply not a realistic timeframe.

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FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554**

In the Matter of)	
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Revision of the Commission's Rules To)	
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Emergency Calling Systems)	
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Request for Waiver By Southern)	
Communications Services d/b/a)	
SouthernLINC Wireless)	

To: The Commission

**PETITION FOR RECONSIDERATION AND CLARIFICATION OF
SOUTHERNLINC WIRELESS**

Pursuant to Section 1.106 of the Rules of the Federal Communications Commission ("FCC" or "Commission"), 47 C.F.R. § 1.106, Southern Communications Services, Inc. d/b/a SouthernLINC Wireless ("SouthernLINC Wireless") hereby petitions the Commission for reconsideration and clarification of the Commission's *Order* granting in part SouthernLINC Wireless' Request for Waiver of Section 20.18(g)(1)(v) of the Commission's Rules, 47 C.F.R. § 20.18(g)(1)(v), which requires commercial mobile radio service (CMRS) providers utilizing handset-based E911 Phase II solutions to achieve ninety-five percent penetration of automatic location identification (ALI)-capable handsets among their subscribers by December 31, 2005.¹

¹ / *Revision of the Commission's Rules to Ensure Compatibility with Enhanced 911 Emergency Calling Systems; Request for Waiver by Southern Communications Services, Inc. d/b/a SouthernLINC Wireless*, CC Docket No. 94-102, Order, FCC 05-188 (rel. Nov. 3, 2005) ("*Order*").

SouthernLINC Wireless had requested a limited waiver that would allow it an additional twenty-four months to reach the level of ninety-five percent penetration of location-capable handsets among its subscribers.² Although the Commission granted SouthernLINC Wireless an extension of the December 31, 2005 deadline, it only provided SouthernLINC Wireless with an additional ten months to meet the ninety-five percent handset penetration level and imposed several conditions upon SouthernLINC Wireless. The Commission based its actions upon its determination that SouthernLINC Wireless “failed to show a clear path to full compliance” under the Commission’s E911 waiver standards.³

For the reasons set forth herein, SouthernLINC Wireless is concerned with the Commission’s conclusion that SouthernLINC Wireless has not demonstrated a clear path to full compliance and requests that the Commission reconsider and provide clarification regarding this determination. SouthernLINC Wireless also requests reconsideration and clarification of the specific conditions that the Commission has placed on its grant of waiver, several of which appear to be impractical to meet, are not applicable in SouthernLINC Wireless’ case, or are insufficiently clear regarding SouthernLINC Wireless’ obligations going forward. As a result, while SouthernLINC Wireless has every intention of fully complying with and fulfilling its regulatory obligations, it is not clear what the Commission’s specific expectations are with respect to the conditions set forth in the *Order* and the implications of any failure on the part of SouthernLINC Wireless to specifically carry out all of the steps enumerated.

² / Request for Waiver by SouthernLINC Wireless, CC Docket No. 94-102, filed July 26, 2005 (“Request for Waiver”).

³ / *Order* at ¶ 3.

Finally, SouthernLINC Wireless respectfully requests that the Commission reconsider the revised November 3, 2006 deadline established in the *Order* for SouthernLINC Wireless to achieve ninety-five percent penetration of location-capable handsets among its subscriber base. As demonstrated in the record, SouthernLINC Wireless must contend with unique and exceptional circumstances that are ultimately beyond its control. While SouthernLINC Wireless believes that it will be able to achieve the ninety-five percent penetration level and will continue to put forth substantial effort and resources into doing so, ten months is simply not a realistic timeframe.

I. BACKGROUND

On July 26, 2005, SouthernLINC Wireless, a “qualified Tier III carrier” as that term is defined in Section 107 of the *ENHANCE 911 Act*,⁴ submitted a Request for Waiver requesting a limited extension of the Commission’s December 31, 2005, handset deployment deadline to allow SouthernLINC Wireless an additional twenty-four months to achieve ninety-five percent penetration of location-capable handsets among its subscriber base. As set forth in the Request for Waiver, as well as in subsequent supplemental filings and *ex parte* presentations to Commission staff, SouthernLINC Wireless faces numerous challenges in its efforts to achieve the required level of penetration of location-capable handsets, including (i) a latent software defect in the Motorola A-GPS-equipped handsets used by SouthernLINC Wireless subscribers that rendered all A-GPS services in these handsets unusable for E911 location in July 2004; (ii) the substantial portion of handsets assigned to enterprise or government accounts that typically have long-term equipment replacement cycles and are both reluctant and

⁴ / National Telecommunications and Information Administration Organization Act – Amendment, Publ. L. No. 108-494, 118 Stat. 3986 (1994) (“*ENHANCE 911 Act*”).

resistant to upgrading from their current handsets to new location-capable handsets; and (iii) the number of SouthernLINC Wireless subscribers who utilize and rely on the range and coverage of higher-power 1 watt and 3 watt phones and who are unwilling to upgrade to a lower-power (0.6 watt) location-capable handset, which could decrease their ability to receive any communications services – including emergency services – in remote areas.⁵

On November 3, 2005, the Commission released its *Order* granting in part SouthernLINC Wireless' waiver request. The Commission stated that its decision was based solely on the requirements of the *ENHANCE 911 Act*.⁶ However, the Commission limited the relief it granted to a ten-month extension of the ninety-five percent handset penetration deadline and imposed numerous conditions upon its grant. According to the *Order*, the Commission took these actions because SouthernLINC Wireless "failed to demonstrate a 'clear path to full compliance' . . . consistent with the Commission's E911 waiver standards."⁷

SouthernLINC Wireless disagrees with the Commission's determination, which SouthernLINC Wireless believes is based on vague, arbitrary, and unarticulated standards. It believes that it has, in fact, shown a clear path to full compliance with the Commission's ninety-five percent handset penetration requirement.

⁵ / See, e.g., Request for Waiver at 2 – 3; See also SouthernLINC Wireless Notice of *Ex Parte* Presentation, CC Docket No. 94-102, filed September 9, 2005; SouthernLINC Wireless Response to Request for Additional Information Supporting its Request for Waiver of the E911 Phase II Handset Deployment Deadline, CC Docket No. 94-102, filed Oct. 26, 2005 ("Supplemental Filing").

⁶ / See *Order* at fn 58.

⁷ / *Order* at ¶ 3.

II. THE COMMISSION'S STANDARDS REGARDING A "CLEAR PATH TO FULL COMPLIANCE" REQUIRE CLARIFICATION

In the *Order*, the Commission stated that it "do[es] not find that SouthernLINC has demonstrated with sufficient specificity how it will achieve a ninety-five percent penetration rate" and therefore "has not adequately shown a 'clear path to full compliance'."⁸ In support of this finding, the Commission faulted SouthernLINC Wireless for:

- proposing "no new measures it is planning to undertake to reach ninety-five percent penetration";
- not specifying what plans it may have "to increase network coverage so as to reduce the need for higher-power handsets";
- not specifying what plans it may have to "work with its equipment vendor to accelerate the availability of higher-power A-GPS handsets"; and
- not providing "specific information concerning the number of subscribers that would be placed in a situation where they would be unable to make any wireless calls if required to upgrade to a [lower-power] location-capable handset."⁹

As an initial matter, SouthernLINC Wireless notes that it provided the Commission with extensive and detailed information regarding its various efforts to increase its level of handset penetration, not only in its Request for Waiver, but also in a supplemental filing made on October 26, 2005, in which SouthernLINC Wireless responded to specific information requests from Commission staff.¹⁰ However, the first time that SouthernLINC Wireless was aware – or had cause to be aware – that the Commission expected the specific issues identified above to be addressed was when the *Order* itself was released. SouthernLINC Wireless further notes that these specific issues

⁸ / *Order* at ¶ 20.

⁹ / *Order* at ¶¶ 20 – 21.

¹⁰ / *See, e.g.*, Request for Waiver at 17, 21 – 26; Supplemental Filing at 3 – 6.

were not only identified by the Commission for the first time in the *Order*, but that they also appear to be the basis for several of the obligations that the Commission has imposed as a condition of its grant of a waiver.

Therefore, SouthernLINC Wireless addresses these issues below and requests that the Commission reconsider its determination accordingly as to whether SouthernLINC Wireless has shown a clear path to full compliance. SouthernLINC Wireless also requests that the Commission clarify, in light of the discussion below, what SouthernLINC Wireless' specific obligations will be with respect to E911 Phase II handset deployment and how the Commission expects SouthernLINC Wireless to demonstrate that it has satisfied and is in compliance with these obligations.

A. New Measures to Reach Ninety-five Percent Penetration

In determining that SouthernLINC Wireless had not shown a clear path to full compliance, the Commission stated that SouthernLINC Wireless “propose[d] no new measures it is planning to undertake” to achieve the ninety-five percent penetration level.¹¹ However, the Commission explicitly acknowledged in paragraph 17 of the *Order* that “[s]ince submitting its Request, SouthernLINC supplemented the record to report on *additional efforts it has been undertaking*”¹² to address the need for subscribers to reflash handsets affected by the software defect or to upgrade to new location-capable handsets. The Commission also identified in the same paragraph five separate programs that SouthernLINC Wireless is running simultaneously¹³ – all of which are in addition to and in conjunction with the programs SouthernLINC Wireless previously described in its

¹¹ / *Order* at ¶ 20.

¹² / *Order* at ¶ 17 (emphasis added).

¹³ / *Id.*

initial Request for Waiver. Furthermore, SouthernLINC Wireless notes that it informed the Commission of these additional measures one week before the adoption of the *Order*. The Commission therefore had before it the most current information possible about SouthernLINC Wireless' efforts, including new measures that had only recently been initiated or undertaken.

Taken together, these efforts have succeeded in enabling SouthernLINC Wireless to raise its penetration level of location-capable handsets from zero in July 2004 (after the A-GPS defect struck) to approximately 43 percent in just over one year.¹⁴ These efforts are working, and SouthernLINC Wireless stated in its Supplemental Filing of October 26, 2005, that it intends to continue these and similar activities and campaigns until its penetration level reaches ninety-five percent.¹⁵ However, the Commission appears to have found these efforts deficient – even those launched between the filing of the Request for Waiver and the Supplemental Filing made one week before the adoption of the *Order* – characterizing them as not “new.” This conclusion on the Commission's part leaves SouthernLINC Wireless in a difficult position – it believes it has undertaken meaningful concrete steps to achieve compliance (in fact, it has undertaken all steps it believes are reasonable), but it is left guessing about what exactly it is required to do to meet the Commission's expectations. Given the wide array of steps that it has pursued and continues to pursue, SouthernLINC Wireless is at a loss to understand what else the Commission expects it to do that is commercially feasible and consumer-friendly.

Accordingly, SouthernLINC Wireless requests that the Commission reconsider its determination that SouthernLINC Wireless has not shown “a clear path to full

¹⁴ / Supplemental Filing at 5.

¹⁵ / *Id.*

compliance” and to provide clarification regarding the Commission’s standards and expectations as to how a carrier can make such a showing.

B. Increase or Expand Network Coverage

The Commission faulted SouthernLINC Wireless for not describing any “plans to expand network coverage, which would reduce the number of subscribers with decreased access to emergency services if required to transition to location-capable phones.”¹⁶ The Commission further ordered that, as part of the compliance plan that SouthernLINC Wireless has been ordered to submit by May 3, 2006, SouthernLINC Wireless must address its progress in “expanding network coverage to reduce the number of customers relying on higher-power, non-A-GPS capable handsets.”¹⁷ SouthernLINC Wireless hereby clarifies that it intends to continue its buildout of sites consistent with sound commercial decisions. The construction of new towers, however, requires substantial expenditure of time and resources, and as explained below, in the case of SouthernLINC Wireless’ all-digital, all-iDEN network, no amount of network buildout would necessarily achieve the result that the Commission refers to in the *Order*.

Most, if not all, of the other CMRS carriers serving customers who utilize higher-power 1 watt or 3 watt handsets do so over analog systems that are being phased out and replaced by digital network overlays. As the coverage of these digital networks expands, there is no change in the coverage area of the analog service, thus allowing carriers to fill in the “gaps” where higher-power analog handsets were once required and rendering the extended range of these analog handsets superfluous.

¹⁶ / *Order* at ¶¶ 20 – 21.

¹⁷ / *Order* at ¶ 22.

In contrast, all of SouthernLINC Wireless' subscribers, regardless of the wattage of their handset, are served by the same digital iDEN network. Any additional towers that SouthernLINC Wireless constructs will simply "push out" the areas where higher-power handsets can be used, rather than overlapping and subsuming them. The resulting enhanced coverage means that users of these higher-power handsets would have no additional incentive – and perhaps even less incentive – to switch to lower-power location-capable handsets since they would then be able to use their handsets further out than before. The only way to effectively "overlap" these areas would be for SouthernLINC Wireless to saturate its *entire* 127,000 square mile service area with RF, which would require a multitude of new towers. Such an end-result is simply not possible, practical, or commercially feasible.

SouthernLINC Wireless would also like to clarify that there is no statutory or regulatory requirement that carriers engage in additional network buildout for the sole purpose of E911. SouthernLINC Wireless will continue to add towers and improve coverage within its service area where there are commercially viable reasons for doing so, and as a result, some customers may become more willing to trade in their higher-power phones for a 0.6 watt phone. But SouthernLINC Wireless cannot be expected to incur significant costs to construct towers, particularly when even heroic construction efforts would not guarantee that customers would relinquish their higher-powered phones. Not only, as explained above, would these customers possibly have less reason to do so because of coverage, but also, as SouthernLINC Wireless explained in its filings, customers are unresponsive to inducements to take new handsets for a variety of

reasons.¹⁸ Coverage, while it is an important reason, is not the sole reason behind such customer resistance.

SouthernLINC Wireless requests that the Commission reconsider its condition whereby SouthernLINC Wireless must file a compliance plan that includes progress made on expanding network coverage to reduce the number of customers relying on higher-power, non-A-GPS capable handsets. As demonstrated above, this condition would require SouthernLINC Wireless to undertake measures that are commercially unreasonable and which would not necessarily motivate customers to change their handsets.

C. Work with Equipment Vendor to Obtain Higher-Power Location-Capable Handsets

The Commission stated that SouthernLINC Wireless did not specify what plans it may have to work with its equipment vendor to accelerate the availability of higher-power location-capable handsets, other than to report that such handsets “may never be available.”¹⁹ The Commission further ordered that, as part of the compliance plan that SouthernLINC has been ordered to submit by May 3, 2006, SouthernLINC Wireless must address its progress in “working with its handset vendor (or vendors) in obtaining handset models that operate at higher power and with A-GPS capability.”²⁰

As stated throughout the record, SouthernLINC Wireless uses Motorola’s proprietary iDEN technology and platform.²¹ Motorola is the sole source manufacturer, vendor, and supplier of iDEN handsets, equipment, and technology. As a regional Tier

¹⁸ / See, e.g., Request for Waiver at 26 – 27; Supplemental Filing at 5 – 6.

¹⁹ / Order at ¶ 20.

²⁰ / Order at ¶ 22.

²¹ / See, e.g., Request for Waiver at 9.

III carrier, SouthernLINC Wireless accounts for only a small fraction of a percent of Motorola's overall business and thus has very little leverage with Motorola with respect to handset design, manufacture, or availability. Motorola has never offered an A-GPS capable iDEN handset with a power level greater than 0.6 watts and has advised SouthernLINC Wireless on several occasions that it has no plans to develop any such higher-power handset. In order to clarify this issue for the Commission, Motorola has agreed to provide a letter explaining its position. A copy of this letter is attached hereto as Exhibit A.²²

SouthernLINC Wireless did not provide the Commission with any plans to work with Motorola on this issue because, after several discussions with Motorola, it was clear that Motorola did not intend to manufacture an A-GPS capable handset with a power level greater than 0.6 watts. SouthernLINC Wireless cannot compel it to do so. SouthernLINC Wireless therefore cannot show, either as part of a "clear path to full compliance" or as part of a mandatory compliance plan, that it is working with a vendor to obtain a handset that will be higher-powered and A-GPS capable.

Accordingly, SouthernLINC Wireless requests that the Commission reconsider its determination that SouthernLINC Wireless has not adequately demonstrated a "clear path to full compliance" and further requests the Commission to reconsider its condition whereby SouthernLINC Wireless must file a compliance plan that includes progress made on working with its handset vendor in obtaining higher-power handsets with A-GPS capability. As demonstrated above, this condition would impose an obligation on SouthernLINC Wireless that is impossible to meet.

²² / See Exhibit A.

D. Information on Subscribers with Higher-Power Phones

In the *Order*, the Commission expressed concern that SouthernLINC Wireless “has not provided us with specific information concerning the number of subscribers that would be placed in a situation where they would be unable to make any wireless calls if required to upgrade to a location-capable handset.”²³ This concern appears to have been a factor in the Commission’s ultimate decision on the waiver request, yet SouthernLINC Wireless is unclear as to what the Commission’s underlying point is or how this concern could or should be addressed.

In the confidential version of its initial Request for Waiver, SouthernLINC Wireless provided the Commission with the percentage of its subscribers who currently use handsets greater than 0.6 watts.²⁴ As described in both the confidential and public versions of the Request for Waiver, these subscribers require these handsets because they often work or find themselves in rural or remote areas and in challenging environments.²⁵ It is irrelevant where these subscribers live or are based, since the reason they have a mobile handset in the first place is because they themselves are mobile. For example, a subscriber may live in Birmingham, Alabama, where coverage is generally not a problem but may often travel to or through more remote areas where a higher-power handset is required in order to make wireless calls. It necessarily follows that *all* of SouthernLINC Wireless’ subscribers who use higher-power handsets would, at some time, be placed in a situation where they would be unable to make any wireless calls if forced to switch to a lower-power handset.

²³ / *Order* at ¶ 21.

²⁴ / *See* Request for Waiver (Confidential Version) at 11, 13, and 27.

²⁵ / *See* Request for Waiver at 11 – 13 and 27 – 28.

SouthernLINC Wireless therefore requests that, to the extent such subscriber information is of concern to the Commission, the Commission clarify the exact nature of the information it is seeking so that SouthernLINC Wireless may appropriately address the Commission's concerns both now and going forward.

III. THE SPECIFIC CONDITIONS PLACED ON SOUTHERNLINC WIRELESS ARE IMPRACTICAL, INAPPLICABLE, OR OTHERWISE UNCLEAR

The Commission stated that it granted SouthernLINC Wireless' Request for Waiver "based solely on the directive of the ENHANCE 911 Act."²⁶ However, the Commission limited the extent of the relief and imposed several conditions on its grant of waiver, stating that "[t]hese conditions are particularly important because SouthernLINC has failed to demonstrate a 'clear path to full compliance' . . . consistent with the Commission's E911 waiver standards."²⁷ As set forth above, SouthernLINC Wireless believes that it has, in fact, shown that it has a clear path to full compliance and that the conditions imposed by the Commission are not necessary and should be reconsidered.

Nevertheless, SouthernLINC Wireless understands and appreciates that the Commission may find it necessary to impose at least some conditions on a grant of waiver of the E911 handset penetration deadline in order to be able to monitor carriers' ongoing compliance efforts and penetration levels. Therefore, while SouthernLINC Wireless requests that the Commission reconsider all of the conditions set forth in the *Order*, SouthernLINC Wireless also requests that, in the alternative, the Commission reconsider and/or provide clarification regarding the specific conditions discussed below.

²⁶ / *Order* at fn 58.

²⁷ / *Order* at ¶ 3.

First, SouthernLINC Wireless requests that the Commission reconsider and clarify its condition requiring SouthernLINC Wireless to file a compliance plan by May 3, 2006.²⁸ According to the *Order*, this compliance plan must set forth, with specificity, the concrete measures SouthernLINC Wireless will undertake to reach the ninety-five percent handset penetration level by November 3, 2006 – just six months after the plan has been filed.²⁹ In the compliance plan, SouthernLINC Wireless is expected to address progress made on the following:

- Expanding network coverage to reduce the number of customers relying on higher-power, non-A-GPS capable handsets;
- Working with its handset vendor (or vendors) in obtaining handset models that operate at higher power and with A-GPS capability; and
- Increasing efforts to ensure that customers reflash their handsets or upgrade to A-GPS phones, as applicable.³⁰

SouthernLINC Wireless requests that, upon reconsideration, the Commission eliminate the compliance plan filing requirement in its entirety. In the alternative, SouthernLINC Wireless requests that the Commission lift the requirement that the plan must address SouthernLINC Wireless' progress in expanding network coverage and in working with its vendor to obtain higher-power location-capable handsets. As set forth above in Section II of this Petition, these are not viable options for SouthernLINC Wireless and it would therefore be impractical, if not impossible, for SouthernLINC Wireless to meet these requirements.

²⁸ / *Order* at ¶ 22.

²⁹ / *Id.*

³⁰ / *Id.*

To the extent the Commission should still require SouthernLINC Wireless to address increasing efforts to ensure that customers are reflashing or upgrading their handsets, SouthernLINC Wireless requests clarification regarding the showing that will be expected of it. As previously discussed in this Petition, SouthernLINC Wireless believed in good faith that it had provided more than enough information to the Commission to sufficiently demonstrate a clear path to full compliance, yet the Commission decided otherwise, citing standards and expectations that had not previously been articulated and remain unexplained. SouthernLINC Wireless is now concerned that it will find itself in a similar situation when submitting its required compliance plan and therefore requests clarification from the Commission regarding this condition. SouthernLINC Wireless emphasizes that it has every intention of fulfilling its obligations and will make every effort to do so, but clear guidance from the Commission is necessary.

The Commission has also imposed an ongoing condition that SouthernLINC Wireless “notify[] its customers, such as by billing inserts, when it reasonably expects PSAPs will make valid requests for Phase II service, to the effect that by upgrading their handsets they will have the ability to automatically transmit their location information.”³¹ SouthernLINC Wireless is concerned that, as written in the *Order*, this obligation could expose it to serious liability issues, since this could be seen as promoting and creating an expectation among consumers of a service that they in fact cannot yet receive. First, this condition requires customer notification to begin when a valid PSAP request is *expected*, not when the PSAP is actually capable of providing the service. SouthernLINC Wireless

³¹ / *Id.*

cannot project with any degree of accuracy when it might receive a valid request. From time to time, it has also received requests that turn out to be invalid because of a lack of readiness on the part of the PSAP, a status that becomes apparent only when implementation activities are initiated.

Second, customers who receive this notification may not perceive any distinction between the service they can receive through their local PSAP and the service they can receive throughout SouthernLINC Wireless' service territory. This notification may therefore cause them to develop an expectation of Phase II E911 service wherever they can use their handset, even if they are in an area where the PSAP is in fact not Phase II-capable.³² Accordingly, SouthernLINC Wireless requests that the Commission reconsider this condition or provide clarification regarding how this condition may be satisfied without exposing the carrier to liability under other state or federal laws or regulations.

IV. THE COMMISSION SHOULD RECONSIDER THE REVISED DEADLINE OF NOVEMBER 3, 2006

In its Request for Waiver and subsequent filings, SouthernLINC Wireless requested an additional twenty-four months because, in its best judgment, that is the amount of time that would be required to overcome the significant hurdles imposed by the need to reflash tens of thousands of individual subscriber handsets (which resulted from a technical defect beyond its control), overcome customer resistance to upgrading to

³² / This is of particular concern to SouthernLINC Wireless given that, while it has timely responded to all PSAP requests it has received, fewer than twenty percent of the PSAPs in its service area – which collectively cover only 26.6 percent of SouthernLINC Wireless' total footprint – are currently capable of receiving its Phase II location information data. As a result, despite its best efforts, customers with location-capable handsets are still unable to receive Phase II E911 service in almost three quarters of its service territory.

new location-capable handsets, and simultaneously move all of its services throughout its entire network to a new frequency position in the 800 MHz band as required under the Commission's *800 MHz Rebanding Order*.³³ SouthernLINC Wireless has demonstrated throughout the record that it has continually put forth substantial effort and undertaken a variety of programs and other measures designed to migrate as much of its customer base as possible to location-capable handsets as quickly as possible, and the record further demonstrates that these efforts have been yielding positive results.

The reasonableness of SouthernLINC Wireless' requested extension period is supported by the numerous letters on the record from PSAPs located in SouthernLINC Wireless' service area – all of whom are aware that SouthernLINC Wireless requested an extension of twenty-four months – expressly stating that they believe a grant of SouthernLINC Wireless' requested waiver to be appropriate.³⁴ SouthernLINC Wireless further notes that, as stated in the *Order*, the Commission did not receive any objections from the public safety community specific to its requested waiver.³⁵

SouthernLINC Wireless believes that it will be able to achieve the ninety-five percent penetration level and will continue to put forth substantial effort and resources into doing so. However, SouthernLINC Wireless also believes that, in light of the extraordinary circumstances of its situation, the ten-month extension granted by the Commission does not provide sufficient time to reach this level. Accordingly, SouthernLINC Wireless requests that the Commission reconsider the revised November

³³ / See, e.g., Request for Waiver at 2 – 3; Supplemental Filing at 2 – 6.

³⁴ / See *Ex Parte* Submission of PSAP Letters Regarding SouthernLINC Wireless' Request for Waiver, CC Docket No. 94-102, filed Sept. 28, 2005; Notice of *Ex Parte* Presentation and *Ex Parte* Submission, CC Docket No. 94-102, filed Oct. 4, 2005.

³⁵ / *Order* at fn 62.

3, 2006, deadline established in the *Order* and grant SouthernLINC Wireless additional time to reach the ninety-five percent handset penetration level.

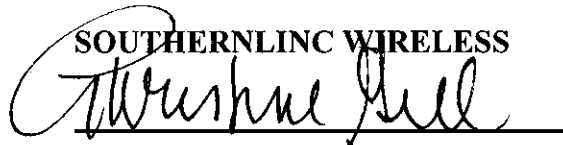
V. CONCLUSION

SouthernLINC Wireless emphasizes that, as the record shows, it has been and is continuing to put forth substantial effort and resources into migrating as much of its subscriber base as possible to location-capable handsets, and it is committed to achieving full compliance with the Commission's handset penetration requirement as quickly as possible. SouthernLINC Wireless believes that it has an effective and clear path to full compliance and that it has demonstrated this path in its filings with the Commission.

However, the Commission's findings as set forth in the *Order* create substantial uncertainty regarding SouthernLINC Wireless' specific regulatory obligations and are unclear as to how the Commission expects SouthernLINC Wireless to demonstrate that it has satisfied and is in compliance with these obligations. SouthernLINC Wireless also believes that, in light of the facts and circumstances demonstrated in the record, SouthernLINC Wireless cannot reasonably be expected to achieve the ninety-five percent penetration level within the period of limited ten-month extension granted by the Commission. Accordingly, SouthernLINC Wireless requests that the Commission reconsider and clarify its findings and determinations as set forth in the *Order*.

WHEREFORE, THE PREMISES CONSIDERED, SouthernLINC Wireless respectfully requests the Commission to reconsider and clarify its *Order* granting in part SouthernLINC Wireless' request for waiver of Section 20.18(g)(1)(v) of the Commission's Rules.

Respectfully submitted,

SOUTHERNLINC WIRELESS


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Dated: December 5, 2005

CERTIFICATE OF SERVICE

I, Merline Wilkins, do hereby certify that on this 5th day of December, 2005, a copy of the foregoing Petition for Reconsideration and Clarification of the Commission's Order Addressing the Request for Waiver by Southern Communications, Inc. d/b/a SouthernLINC Wireless, WT Docket No. 94-102, was submitted via hand delivery to the Federal Communications Commission and courtesy copies served via electronic and hand delivered mail upon the following:

Jeffrey Cohen
Federal Communications Commission
236 Massachusetts Avenue, N.E.
Washington, D.C. 20002

James Schlichting
Federal Communications Commission
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Cathy Seidel
Federal Communications Commission
236 Massachusetts Avenue, N.E.
Washington, D.C. 20002

Commissioner Jonathan S. Adelstein
Federal Communications Commission
236 Massachusetts Avenue, N.E.
Washington, D.C. 20002

/s/ Merline Wilkins

Merline Wilkins

EXHIBIT A



December 2, 2005

Mr. Michael Rosenthal
Director, Legal and External Affairs
SouthernLINC Wireless
5555 Glen Ridge Connector
Suite 500
Atlanta, GA 30342


Re: AGPS Capability in iDEN Communication Products

Dear Mr. Rosenthal,

Motorola includes the AGPS capability in all its currently shipping iDEN communication subscriber products. Motorola has never offered and has no plans to develop iDEN communication subscriber products that can support both AGPS and a power level of greater than .6 watts. While some of our legacy products, developed long before the AGPS feature was developed on the iDEN platform and currently still in use by SouthernLINC Wireless customers, did provide power levels of 1 watt and greater, the power level of .6 watts is the maximum level supported by our current subscriber product platform.

If further information regarding this matter is required from Motorola, please do not hesitate to contact me directly.

Respectfully,



Julio Abdala
Senior Director of Engineering
iDEN Mobile Devices
Motorola, Inc.

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